

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
Indianapolis Division**

In re:

Demona Freeman,

Case No. 12-04713-JJG-13

Debtor.

Chapter 13

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Demona Freeman,

Plaintiff,

v.

Adversary No. 21-50006

PHH Mortgage f/k/a Ocwen Loan  
Servicing, LLC, and Ocwen Financial  
Corporation,

Defendants.

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**PHH MORTGAGE CORPORATION AND OCWEN FINANCIAL CORPORATION'S  
ANSWER AND AFFIRMATIVE DEFENSES**

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Defendants PHH Mortgage Corporation<sup>1</sup> (“PHH”) and Ocwen Financial Corporation (collectively “Defendants”), by counsel, submit the following Answer and Affirmative Defenses to the Adversary Complaint (the “Complaint”) filed by Debtor-Plaintiff Demona Freeman (“Plaintiff”).

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<sup>1</sup> Plaintiff has erroneously named defendant “PHH Mortgage” as being formerly known as Ocwen Loan Servicing, LLC. PHH Mortgage Corporation is the successor by merger to Ocwen Loan Servicing, LLC. Given that PHH Mortgage Corporation existed prior to its merger with Ocwen Loan Servicing, LLC, Plaintiff’s “formerly known as” designation is erroneous.

## INTRODUCTION

1. The allegations in Paragraph 1 are a characterization of this action to which no response is required. Defendants deny they are liable to Plaintiff for any amount under any theory, whatsoever. By way of further response, the allegations in Paragraph 1 ask the Court to “punish” Defendants for alleged harm caused to “Freeman and similarly situated consumers and debtors.” However, Plaintiff has not filed a class action on behalf of other individuals – nor could she in this Adversary Proceeding – and, as a result, the requested relief is unavailable as a matter of law.

2. The allegations in Paragraph 2 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

3. The allegations in Paragraph 3 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

4. The allegations in Paragraph 4 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

5. The allegations in Paragraph 5 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

6. The allegations in Paragraph 6 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied. The remaining allegations in Paragraph 6 are denied. By way of further response, Defendants attach hereto correspondence dated December 10, 2019, which explains that Plaintiff’s current state of default is in no way related to her Chapter 13 Bankruptcy, and instead, is a result of non-payment

between May 5, 2018 and August 13, 2019, and then between August 13, 2019 and the date of the letter.<sup>2</sup> *See* Correspondence dated December 10, 2019, attached hereto as **Exhibit 1**.

7. The allegations in Paragraph 7 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied. The remaining allegations in Paragraph 7 are denied.

8. The allegations in Paragraph 8 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied. The remaining allegations in Paragraph 8 are denied.

### **JURISDICTION AND VENUE**

9. The allegations in Paragraph 9 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

10. The allegations in Paragraph 10 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

11. The allegations in Paragraph 11 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

12. The allegations in Paragraph 12 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

### **PARTIES**

13. Defendants deny the allegations in Paragraph 13.

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<sup>2</sup> Upon information and belief, Plaintiff has not made any payments on her mortgage loan since the December 10, 2019 letter was sent.

14. The allegations in Paragraph 14 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

15. Defendants deny the allegations in Paragraph 15.

16. The allegations in Paragraph 16 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

**FACTUAL ALLEGATIONS RELATED TO FREEMAN'S CHAPTER 13**

17. Defendants are without sufficient knowledge and/or information to form a belief as to the truth of the allegations in Paragraph 17, and therefore deny the same.

18. The allegations in Paragraph 18 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

19. Defendants are without sufficient knowledge and/or information to form a belief as to the truth of the allegations in Paragraph 19 regarding Plaintiff's intentions, and therefore deny the same. The remaining allegations refer to documents which speak for themselves. To the extent the remaining allegations are contrary to the documents to which they refer, they are denied.

20. The allegations in Paragraph 20 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

21. The allegations in Paragraph 21 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

22. The allegations in Paragraph 22 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

23. The allegations in Paragraph 23 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

24. The allegations in Paragraph 24 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

25. The allegations in Paragraph 25 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

26. The allegations in Paragraph 26 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

27. The allegations in Paragraph 27 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

28. The allegations in Paragraph 28 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

29. The allegations in Paragraph 29 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

30. The allegations in Paragraph 30 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

31. The allegations in Paragraph 31 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

32. The allegations in Paragraph 32 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

33. The allegations in Paragraph 33 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

34. The allegations in Paragraph 34 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

35. The allegations in Paragraph 35 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

36. The allegations in Paragraph 36 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

37. The allegations in Paragraph 37 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

38. The allegations in Paragraph 38 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

39. The allegations in Paragraph 39 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

40. The allegations in Paragraph 40 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

41. The allegations in Paragraph 41 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

42. The allegations in Paragraph 42 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

43. The allegations in Paragraph 43 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

44. The allegations in Paragraph 44 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

45. The allegations in Paragraph 45 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

46. The allegations in Paragraph 46 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

47. The allegations in Paragraph 47 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

48. The allegations in Paragraph 48 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

49. The allegations in Paragraph 49 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

50. The allegations in Paragraph 50 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

51. The allegations in Paragraph 51 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

52. The allegations in Paragraph 52 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

**FACTUAL ALLEGATIONS RELATED TO CONDUCT SUBSEQUENT TO  
FREEMAN'S CHAPTER 13**

53. The allegations in Paragraph 53 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

54. The allegations in Paragraph 54 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

55. The allegations in Paragraph 55 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

56. The allegations in Paragraph 56 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

57. The allegations in Paragraph 57 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.



58. The allegations in Paragraph 58 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

59. The allegations in Paragraph 59 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

60. The allegations in Paragraph 60 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

61. The allegations in Paragraph 61 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

62. The allegations in Paragraph 62 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

63. The allegations in Paragraph 63 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

64. The allegations in Paragraph 64 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

65. The allegations in Paragraph 65 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

66. The allegations in Paragraph 66 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

67. The allegations in Paragraph 67 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

68. Defendants deny the allegations in Paragraph 68.

69. Defendants deny the allegations in Paragraph 69.

70. The allegations in Paragraph 70 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

71. The allegations in Paragraph 71 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

72. The allegations in Paragraph 72 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

73. The allegations in Paragraph 73 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

74. The allegations in Paragraph 74 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

75. The allegations in Paragraph 75 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

76. The allegations in Paragraph 76 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

77. Defendants deny the allegations in Paragraph 77.

78. The allegations in Paragraph 78 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

79. The allegations in Paragraph 79 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

80. The allegations in Paragraph 80 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

81. The allegations in Paragraph 81 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

82. The allegations in Paragraph 82 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

83. The allegations in Paragraph 83 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

84. The allegations in Paragraph 84 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

85. Defendants deny the allegations in Paragraph 85.

86. Defendants deny the allegations in Paragraph 86.

87. The allegations in Paragraph 87 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

88. The allegations in Paragraph 88 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

89. Defendants deny the allegations in Paragraph 89.

**FACTUAL ALLEGATIONS RELATED TO OCWEN'S KNOWLEDGE OF SYSTEMIC PROBLEMS WITH REALSERVICING, ITS FAILURE TO CORRECT THE SAME, AND THE WIDESPREAD HARM TO DEBTORS RESULTING THEREFROM**

90. The allegations in Paragraph 90 are a characterization of this action and relief sought by Plaintiff, which requires no response. To the extent the allegations in Paragraph 90 contain statements and conclusions of law, no response is required. To the extent those allegations are contrary to the law, they are denied.

91. Defendants are without sufficient knowledge and/or information to form a belief as to the truth of the allegations in Paragraph 91, and therefore deny the same.

92. The allegations in Paragraph 92 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

93. The allegations in Paragraph 93 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

94. The allegations in Paragraph 94 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

95. The allegations in Paragraph 95 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

96. The allegations in Paragraph 96 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

97. The allegations in Paragraph 97 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

98. The allegations in Paragraph 98 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

99. The allegations in Paragraph 99 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

#### **OCWEN'S LONG HISTORY OF ABUSING CONSUMERS**

100. The allegations in Paragraph 100 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

#### **OCWEN'S 2011 AGREEMENT ON MORTGAGE SERVICING PRACTICES WITH THE NEW YORK DEPARTMENT OF FINANCIAL SERVICES**

101. The allegations in Paragraph 101 contain statements and conclusions of law and/or refer to documents which speak for themselves to which no response is required. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied. By way of further response, the documents attached to the Complaint and labeled "Exhibit A" do not appear to be the documents described in Paragraph 101.

102. The allegations in Paragraph 102 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

103. The allegations in Paragraph 103 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

104. The allegations in Paragraph 104 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

105. The allegations in Paragraph 105 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

106. The allegations in Paragraph 106 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

107. The allegations in Paragraph 107 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

108. The allegations in Paragraph 108 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

109. The allegations in Paragraph 109 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

#### **2012 Consent Decree With NYDFS**

110. The allegations in Paragraph 110 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

111. The allegations in Paragraph 111 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

112. The allegations in Paragraph 112 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

113. The allegations in Paragraph 113 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied. By way of further response, while there is a slip page labeled “Exhibit B,” there are no documents labeled “Exhibit B” attached to the Complaint as described in Paragraph 113.

114. The allegations in Paragraph 114 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

115. The allegations in Paragraph 115 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

116. The allegations in Paragraph 116 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

117. The allegations in Paragraph 117 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

118. The allegations in Paragraph 118 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

**Ocwen's 2014 Consent Decree with NYDFS**

119. The allegations in Paragraph 119 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

120. The allegations in Paragraph 120 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

121. The allegations in Paragraph 121 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

122. The allegations in Paragraph 122 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

123. The allegations in Paragraph 123 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

124. The allegations in Paragraph 124 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

125. The allegations in Paragraph 125 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.



126. The allegations in Paragraph 126 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

127. Defendants are without sufficient knowledge and/or information to form a belief as to the truth of the allegations in Paragraph 127, and therefore deny the same. The remaining allegations in Paragraph 127 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the remaining allegations are contrary to the law or the documents to which they refer, they are denied.

128. The allegations in Paragraph 128 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

129. The allegations in Paragraph 129 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

130. The allegations in Paragraph 130 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

131. The allegations in Paragraph 131 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

132. The allegations in Paragraph 132 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

**The 2014 National Mortgage Servicing Settlement and Settlement Agreement and Consent Order with 49 States**

133. The allegations in Paragraph 133 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied. By way of further response, while there is a slip page labeled “Exhibit C,” there are no documents labeled “Exhibit C” attached to the Complaint as described in Paragraph 133.

134. The allegations in Paragraph 134 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

135. The allegations in Paragraph 135 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

136. The allegations in Paragraph 136 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied. By way of further response, while there is a slip page labeled “Exhibit D,” there are no documents labeled “Exhibit D” attached to the Complaint as described in Paragraph 136.

137. The allegations in Paragraph 137 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

138. The allegations in Paragraph 138 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

139. The allegations in Paragraph 139 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

140. The allegations in Paragraph 140 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

141. The allegations in Paragraph 141 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

142. The allegations in Paragraph 142 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

143. The allegations in Paragraph 143 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

144. The allegations in Paragraph 144 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

145. The allegations in Paragraph 145 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

146. The allegations in Paragraph 146 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

**RealServicing: Ocwen's Failed Mortgage Servicing System**

147. The allegations in Paragraph 147 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

148. The allegations in Paragraph 148 contain statements and conclusions of law, to which no response is required. To the extent the allegations are contrary to the law, they are denied.

149. The allegations in Paragraph 149 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

150. The allegations in Paragraph 150 contain statements and conclusions of law, to which no response is required. To the extent the allegations are contrary to the law, they are denied.

151. The allegations in Paragraph 151 contain statements and conclusions of law, to which no response is required. To the extent the allegations are contrary to the law, they are denied.

**The CFPB Lawsuit against Ocwen in April of 2017**

152. The allegations in Paragraph 152 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

153. The allegations in Paragraph 153 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

154. The allegations in Paragraph 154 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

155. The allegations in Paragraph 155 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

156. The allegations in Paragraph 156 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

157. The allegations in Paragraph 157 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

158. The allegations in Paragraph 158 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

159. The allegations in Paragraph 159 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

160. The allegations in Paragraph 160 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the

extent the allegations are contrary to the law or the documents to which they refer, they are denied. By way of further response, the allegations in Paragraph 160 purport to described documents that were produced in *Todd v. Ocwen Loan Servicing, LLC* (Case No. 2:19-cv-00085) pursuant to a Protective Order (ECF No. 34), which specifically precludes the use and/or dissemination of the documents and/or information contained therein outside the context of that specific litigation. To that end, Plaintiff's allegations in Paragraph 160 appear to be in violation of the Protective Order in the *Todd* case.

161. The allegations in Paragraph 161 are a prayer for relief and/or specific action by the Court, which does not require a response. Nonetheless, Defendants deny that there is any basis for the Court to grant the relief sought.

162. The allegations in Paragraph 162 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

163. The allegations in Paragraph 163 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

164. The allegations in Paragraph 164 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

165. The allegations in Paragraph 165 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

166. The allegations in Paragraph 166 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

167. The allegations in Paragraph 167 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

168. The allegations in Paragraph 168 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

169. The allegations in Paragraph 169 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

#### **Contemporaneous 2017 Regulatory Action by Several States**

170. The allegations in Paragraph 170 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

171. The allegations in Paragraph 171 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

172. The allegations in Paragraph 172 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

173. The allegations in Paragraph 173 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

174. The allegations in Paragraph 174 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

175. The allegations in Paragraph 175 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

176. The allegations in Paragraph 176 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

**Accumulated Evidence of Extensive Internal and External Notice and Knowledge of Severe Shortcomings with RealServicing and Mortgage Servicing Practices**

177. The allegations in Paragraph 177 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

178. The allegations in Paragraph 178 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

179. The allegations in Paragraph 179 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

180. The allegations in Paragraph 180 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.



**Ocwen's Ongoing Pattern of Abusing Consumers**

181. The allegations in Paragraph 181 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

182. The allegations in Paragraph 182 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

183. The allegations in Paragraph 183 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

184. The allegations in Paragraph 184 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

185. The allegations in Paragraph 185 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

186. The allegations in Paragraph 186 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

187. The allegations in Paragraph 187 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

188. The allegations in Paragraph 188 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

189. The allegations in Paragraph 189 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

190. The allegations in Paragraph 190 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

191. The allegations in Paragraph 191 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

192. The allegations in Paragraph 192 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

193. The allegations in Paragraph 193 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

194. The allegations in Paragraph 194 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

195. The allegations in Paragraph 195 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

196. The allegations in Paragraph 196 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

197. The allegations in Paragraph 197 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

198. The allegations in Paragraph 198 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied. By way of furth response, Defendants deny there is any basis in law or fact to impose “severe punishment.”

**COUNT I: Violation of the Discharge Injunction (11 U.S.C. § 524)**

199. Defendants incorporate the foregoing paragraphs as if stated fully herein.

200. The allegations in Paragraph 200 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

201. The allegations in Paragraph 201 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

202. Defendants deny the allegations in Paragraph 202. *See* Ex. 1.

203. The allegations in Paragraph 203 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

204. The allegations in Paragraph 204 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

205. The allegations in Paragraph 205 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

206. The allegations in Paragraph 206 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied. By way of further response, Defendants deny Plaintiff is entitled to any of the relief sought.

## **COUNT II: Violations of the RESPA**

207. Defendants incorporate the foregoing paragraphs as if stated fully herein.

208. The allegations in Paragraph 208 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

209. The allegations in Paragraph 209 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

210. The allegations in Paragraph 210 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

211. The allegations in Paragraph 211 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

212. The allegations in Paragraph 212 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

213. The allegations in Paragraph 213 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

214. The allegations in Paragraph 214 refer to documents which speak for themselves. To the extent the allegations are contrary to the documents to which they refer, they are denied.

215. The allegations in Paragraph 215 contain statements and conclusions of law to which no response is required, and/or refer to documents which speak for themselves. To the extent the allegations are contrary to the law or the documents to which they refer, they are denied.

216. Defendants are without sufficient knowledge and/or information as to the truth of the allegations in Paragraph 216, as those allegations refer to a document that is not described or identified. Accordingly, the allegations in Paragraph 216 are denied.

217. Defendants deny the allegations in Paragraph 217. *See Ex. 1.*

218. The allegations in Paragraph 218 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied. By way of further response, Defendants state that they fully complied with the Real Estate Settlement Procedures Act by conducting an investigation into the errors alleged by Plaintiff and providing a detailed response to her purported Qualified Written Request. *See Ex. 1.*

219. The allegations in Paragraph 219 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

220. Defendants deny the allegations in Paragraph 220.

221. The allegations in Paragraph 221 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

222. Defendants deny the allegations in Paragraph 222. Plaintiff filed a lawsuit in the United States District Court for the Southern District of Indiana on December 6, 2018. She subsequently filed two amended complaints and later was denied leave to file a third iteration of her Complaint due a failure to exercise due diligence. *See* Order Denying Plaintiff Leave to File Third Amended Complaint, *Freeman v. Ocwen Loan Servicing, LLC et al.*, Case No. 1:18-cv-03844 (ECF No. 83).

223. The allegations in Paragraph 223 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

224. The allegations in Paragraph 224 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

225. The allegations in Paragraph 225 contain statements and conclusions of law to which no response is required. To the extent the allegations are contrary to the law, they are denied.

226. Defendants admit Plaintiff has demanded a trial by jury but deny she is entitled to one.

### **PRAYER FOR RELIEF & JURY DEMAND**

Defendants deny that Plaintiff is entitled to any of the relief sought in the “**WHEREFORE**” Paragraph of the Complaint following Paragraph 226, including the subparagraphs A. through E.

Defendants deny that they are liable to Plaintiff in any manner whatsoever for the requests for relief set forth in the Complaint.

Defendants deny they are liable to Plaintiff in any amount whatsoever under any theory whatsoever.

All allegations not specifically admitted herein are denied.

Defendants reserve the right to rely upon any and all defenses as may become known though discovery or at trial.

Defendants reserve the right to amend their Answer to conform to the evidence as determined in discovery or at trial.

### **STATEMENT OF NON-CONSENT**

Pursuant to Bankruptcy Rule 7012(b), Defendants state that they do not consent to entry of final orders or judgment by the Bankruptcy Court.

### **AFFIRMATIVE DEFENSES**

1. Plaintiff’s claims are barred to the extent the Complaint fails to state a plausible claim for which relief can be granted and should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6) and/or 12(c) as incorporated by Federal Rule of Bankruptcy Procedure 7012(b). *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009).

Defendants reserve the right to file a Motion to for Judgment on the Pleadings seeking dismissal of the claims in Plaintiff's Complaint.

2. Defendants aver that some or all of the claims made in the Complaint may be barred by the doctrine of laches and/or the statutes of limitations applicable to the Real Estate Settlement Procedures Act.

3. Plaintiff cannot recover from Defendants to the extent that any damages that Plaintiff may have suffered, which Defendants continue to deny, directly and proximately resulted from Plaintiff's own acts and/or omissions.

4. Plaintiff cannot recover from Defendants to the extent that any damages that Plaintiff may have or will suffer as alleged in the Complaint, which Defendants continue to deny, have been and will be proximately caused, in whole or in part, by the negligent, willful, or tortious acts or omissions of persons or entities over whom Defendants had no control, and for whom Defendants are not responsible, which bars or diminishes any recovery by Plaintiff against Defendants.

5. Plaintiff's claims may be barred, in whole or in part, to the extent Plaintiff has not suffered any actual damages.

6. Plaintiff's claims may be barred, in whole or in part, to the extent Plaintiff has failed to mitigate her damages.

7. Defendants state that while they believe that Plaintiff has failed to plead any claims that could support a punitive damages award, Plaintiff's claims for punitive damages fail to the extent that the Complaint fails to plead sufficient facts to state a claim for relief for punitive damages and, even if she proves an entitlement to any such punitive damage award, Defendants



are entitled to the affirmative defense that any such award must comport with the Due Process clause under the Constitution of the United States of America.

8. At all times relevant, Defendants acted reasonably and in good faith and without any malice or intent to injure Plaintiff or to violate applicable federal and/or state law.

9. Plaintiff's claims fail to the extent Plaintiff lacks standing and/or the Court lacks subject matter jurisdiction over some or all of Plaintiff's claims.

10. Plaintiff's claims fail to the extent she is barred by the doctrines of estoppel (judicial, equitable, collateral or otherwise) and/or res judicata.

11. Plaintiff's claims should be dismissed to the extent that Defendants acted in good faith in conformity with an advisory opinion of the Federal Trade Commission and/or Consumer Financial Protection Bureau.

12. Defendants aver that some or all of the relief sought by Plaintiff under RESPA is capped by the statute. Specifically, Plaintiff's claim for statutory damages based on a "pattern and practice" violation is capped at \$2,000 in this case. 12 U.S.C. § 2605(f)(1)(B); *see, e.g., Ploog v. HomeSide Lending, Inc.*, 209 F.Supp.2d 863, 869 (N.D. Ill. 2002) (holding that "pattern and practice" damages were capped at \$2,000 per case).

13. Defendants reserve the right to rely upon any and all defenses (affirmative and otherwise) as may become known through discovery or at trial.

WHEREFORE, Defendants respectfully prays the Court that:

1. Plaintiff's claims against Defendants be dismissed;
2. Plaintiff's prayer for relief be denied in its entirety;
3. Plaintiff has and recovers nothing from Defendants;
4. The costs of this action be taxed against Plaintiff; and,

5. Defendants have such other and further relief as the Court shall deem just and proper.

Dated: February 18, 2021

Respectfully submitted,

By: /s/ Ethan G. Ostroff

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